

## WESTERN DISTRICT OF LOUISIANA

KENDALL SMITH :  
VERSUS : CIVIL ACTION NO.: 6:19-CV-01213  
MARK GARBER, ET AL : JUDGE MICHAEL J. JUNEAU;  
MAG. JUDGE WHITEHURST

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## CONSENT JUDGMENT

By agreement of counsel and considering the Motion to Dismiss Penalty, Punitive, or Exemplary Damages previously filed on behalf of LAFAYETTE-CITY PARISH CONSOLIDATED GOVERNMENT [Court Doc. #5];

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Motion to Dismiss Penalty, Punitive, or Exemplary Damages filed on behalf of LAFAYETTE CITY-PARISH CONSOLIDATED GOVERNMENT [Court Doc. #5] be and same is hereby **GRANTED**, and plaintiff's claims for penalty, punitive, and exemplary damages against LAFAYETTE CITY-PARISH CONSOLIDATED GOVERNMENT under state law be and they are hereby **DISMISSED**, as there is no Louisiana state statute that allows for the recovery of punitive or exemplary damages in this matter.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to *City of Newport v. Fact Concerts, Inc.*, [101 S.Ct. 2748](#) (1981), punitive damages cannot be recovered from LAFAYETTE CITY-PARISH CONSOLIDATED GOVERNMENT, and that

plaintiff's claims against LAFAYETTE CITY-PARISH CONSOLIDATED GOVERNMENT for punitive damages are **DISMISSED** as a matter of law.

Mr. L. Clayton Burgess has given Joy C. Rabalais the authority to submit this proposed Consent Judgment with his electronic signature.

THUS DONE AND SIGNED this 13th day of December, 2019, at Lafayette, Louisiana.



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JUDGE

**SUBMITTED BY:**

BORNE, WILKES & RABALAIS, L.L.C.

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ATTORNEYS FOR LAFAYETTE CITY-PARISH  
CONSOLIDATED GOVERNMENT

**APPROVED:**

/s/ L. Clayton Burgess

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